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Title of Document Transmitted:	TRANSMITTALS AND SUBSTITUTE BRIEF OF APPELLANTS
Applicant:	Lawrence N. Chapman et al.
Serial No.:	09/726,367
Filed:	November 29, 2000
Group Art Unit:	2623
Title:	BACKWARDS COMPATIBLE REAL-TIME PROGRAM GUIDE CAPACITY INCREASE
Our Ref. No.:	PD-990258

Please charge all fees to Deposit Account No. 50-0383 of The DIRECTV Group, Inc., the assignee of the present application.

By: Name: Victor G. Cooper
Reg. No.: 39,641

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Lawrence N. Chapman et al.	Examiner:	Usha Raman
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CERTIFICATE OF MAILING OR TRANSMISSION UNDER 37 CFR 1.8

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By: C. Flores

Name: Christine Flores

Commissioner for Patents
P.O. Box 1450
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Dear Sir:

We are transmitting herewith the attached:

- ☒ Transmittal sheet, in duplicate, containing a Certificate of Mailing or Transmission under 37 CFR 1.8.
- ☒ Substitute Brief of Appellant(s).

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate.

Please charge all fees to Deposit Account No. 50-0383 of The DIRECTV Group, Inc., the assignee of the present application. A duplicate of this paper is enclosed.

Customer Number 20991

The DIRECTV Group, Inc.
RE/R11/A109
2250 E. Imperial Highway
P.O. Box 956
El Segundo, CA 90245

By: Victor G. Cooper

Name: Victor G. Cooper
Reg. No.: 39,641
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Due Date: November 5, 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

Inventor: Lawrence N. Chapman et al.

Serial #: 09/726,367

Filed: November 29, 2000

Title: BACKWARDS COMPATIBLE REAL-TIME
PROGRAM GUIDE CAPACITY INCREASE

Examiner: Usha Raman

Group Art Unit: 2623

Appeal No.: _____

SUBSTITUTE BRIEF OF APPELLANTS

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 CFR §41.37, Appellants hereby submit the Substitute Brief of Appellants on appeal from the final rejection in the above-identified application, as set forth in the Final Office Action dated May 12, 2007 and the Advisory Action mailed June 8, 2007, and in response to the Notice of Non-Compliant Appeal Brief dated October 4, 2007.

No fee is required. However, should the Appellants be mistaken in this regard, please charge any additional fees or credit any overpayments to Deposit Account No. 50-0383.

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I. REAL PARTY IN INTEREST

The real party in interest is The DirecTV Group, Inc., the assignee of the present application.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences for the above-referenced patent application.

III. STATUS OF CLAIMS

Claims 1-38 are pending in the application.

Claims 1-3, 6, 7, 9-11, 13, 14, and 34-36 were rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 5,883,677 to Hofmann, and U.S. Patent No. 5,867,207 to Chaney et al. (Chaney) and U.S. Patent No. 6,434,384 issued to Norin et al. (Norin) and these rejections are being appealed.

Claims 4, 5, and 12 were rejected under 35 U.S.C. §103(a) as being obvious in view of Hofmann, in further view of Chaney, Norin and U.S. Patent No. 6,133,910 to Stinebruner.

Claims 8 and 15 were rejected under 35 U.S.C. §103(a) as being obvious in view of Hofmann, in further view of Chaney, Norin, and U.S. Patent No. 6,401,242 to Eyer et al. (Eyer).

Claim 16-18, 20, 21, and 37 were rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent No. 6,072,983 to Klosterman, in further view of Chaney and Norin.

Claim 19 was rejected under 35 U.S.C. §103(a) as being unpatentable over Klosterman, in further view of Chaney, Norin, and Stinebruner.

Claim 22 is rejected under 35 U.S.C. §103(a) as being unpatentable over Klosterman in further view of Chaney, Norin, Stinebruner, and Eyer.

Claims 23-28, 31, 32, and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Klosterman in further view of Chaney and Norin.

Claims 29-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Klosterman in further view of Chaney, Norin, and Stinebruner.

Claim 33 is rejected under 35 U.S.C. §103(a) as being unpatentable over Klosterman in further view of Chaney, Norin, and Eyer, and these rejections are being appealed.

IV. STATUS OF AMENDMENTS

No amendments to the claims have been made subsequent to the final Office Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Briefly, Appellants' invention, as recited in independent claims 1, 9, 16, 23, and 34, is generally directed to an invention that

Claim	Language	Specification Support
1	In a network broadcasting a first signal having a first set of programs and not a second set of programs to a plurality of subscribers and a second signal having the second set of programs, a method of providing program guide information describing the second set of programs, comprising:	Network is described as video distribution system (600), the first signal (616) and second signal (618) are described in FIG. 6 and in the text of the specification at page 13, line 25 through page 15, line 6. The subscriber (122) the described in FIG. 1. Program guide information is disclosed at page 2, lines 4-7.
	broadcasting first program guide information from the network, the first program guide information describing the first set of programs and not the second set of programs to the subscribers on a first service channel on the first signal; and	This step is disclosed in FIG. 10, block 1002, and in accompanying text of specification (page 17, line 9-13).
	broadcasting second program guide information from the network, the second program guide information	Step is disclosed in FIG. 10, block 1004, and in accompanying text of specification (page 17, lines 13-21). Fundamental signal characteristic

Claim	Language	Specification Support
	describing the second set of programs to a subset of the subscribers on the first service channel on the second signal, wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.	is disclosed in the specification at page 14, lines 11-18.
9	In a network broadcasting a first signal having a first set of programs and not a second set of programs to a plurality of subscribers and a second signal having the second set of programs to a subset of the subscribers, a method of receiving program guide information describing the second set of programs, comprising the steps of:	Network is described as video distribution system (600), the first signal (616) and second signal (618) are described in FIG. 6 and in the text of the specification at page 13, line 25 through page 15, line 6. The subscriber (122) the described in FIG. 1. Program guide information is disclosed at page 2, lines 4-7.
	receiving first program guide information from the network, the first program guide information describing the first set of programs and not the second set of programs on a first service channel on the first signal; and	Broadcasting this information is disclosed in FIG. 10, block 1002, and in accompanying text of specification (page 17, line 9-13). The reception of the broadcasted signal is disclosed at page 13, lines 14-21 and page 13, line 25 through page 15, line 6.
	receiving second program guide information from the network, the second program guide information describing the second set of programs on the first service channel	Broadcasting this information is disclosed in FIG. 10, block 1004, and in accompanying text of specification (page 17, lines 13-21). Fundamental signal characteristic is disclosed in the specification at page 14, lines 11-18.

Claim	Language	Specification Support
	on the second signal, wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.	The reception of the broadcasted signal is disclosed at page 13, lines 14-21 and page 13, line 25 through page 15, line 6.
16	A receiver, comprising:	The receiver (500) is disclosed as the integrated receiver/decoder 500 illustrated in FIG. 5 and described in the associated text of the specification (page 10, line 1 through page 13, line 24)
	a user interface for accepting subscriber commands;	The user interface is disclosed at page 16, line 10, in FIG. 5 as item 524.
	a tuner selectably configurable to receive a first service channel on a first signal broadcast from a network and the first service channel on a second signal broadcast from the network, the first signal comprising a first set of programs and first program information describing the first set of programs but not a second set of programs, and the second signal comprising the second set of programs and second program guide information describing the second set of programs;	<p>The tuner is illustrated in FIG. 5 (item 504) and is disclosed in the specification at page 10, line 1-17.</p> <p>That the tuner receives a first service channel on a first signal broadcast from a network and the first service channel on a second signal broadcast from the network and that the first signal comprising a first set of programs and first program information describing the first set of programs but not a second set of programs, and the second signal comprising the second set of programs and second program guide information describing the second set of programs is disclosed in the specification in FIG. 6 and FIG. 7, and in the text from page 15 lines 7-23, as well as FIG. 10, block 1004 and in the text at page 17 lines</p>

Claim	Language	Specification Support
		13-21).
	wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal; and	Disclosed in the specification at page 14, lines 11-18.
	a processor, communicatively coupled to the user interface and the tuner, for retrieving the first program information and the second program information for providing the first and second program information to a presentation device, and for accepting subscriber commands from the user interface.	The processor and the functionality is illustrated in block 510 of FIG. 5 and described in the specification on page 12, lines 1-14.
23	An apparatus for use with a network broadcasting a first signal having a first set of programs and not a second set of programs to a plurality of subscribers and a second signal having the second set of programs to a subset of the subscribers, comprising:	<p>Network is described as video distribution system (600), the first signal (616) and second signal (618) are described in FIG. 6 and in the text of the specification at page 13, line 25 through page 15, line 6.</p> <p>The subscriber (122) the described in FIG. 1.</p> <p>Program guide information is disclosed at page 2, lines 4-7.</p>
	a compiler, configured to segment the programs into the first set of programs and the second set of programs, and to generate first program guide describing the first set	The compiler is illustrated in FIG. 3 (item 304 and discussed in the specification at page 7, line 30 through page 8, line 4.

Claim	Language	Specification Support
	of programs and second program guide information describing the second set of programs;	
	a first transmitter, communicatively coupled to the compiler, for transmitting first program guide information describing the first set of programs and not the second set of programs on a first service channel on the first signal; and	As shown in FIG. 6 and discussed on page 5, lines 7-14, the first transmitter 107 is disposed in first satellite 108. First transmitter is communicatively coupled to the compiler 304 via uplink signal 116 shown in FIG. 1.
	a second transmitter, communicatively coupled to the compiler, for transmitting the second program guide information describing the second set of programs on the first service channel on the second signal;	Second transmitter is disposed in second satellite 602. Second transmitter is analogous to the first transmitter 107 communicatively coupled to the compiler 304 via uplink signal 116 shown in FIG. 1
	wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.	Fundamental signal characteristic is disclosed in the specification at page 14, lines 11-18.
34	In a network broadcasting a first signal having a first set of programs and not a second set of programs, each of the programs in the first set of programs transmitted on an associated one of a plurality of service channels to a plurality of subscribers and a second signal	Network is described as video distribution system (600), the first signal (616) and second signal (618) are described in FIG. 6 and in the text of the specification at page 13, line 25 through page 15, line 6. The subscriber (122) the described in FIG. 1.

Claim	Language	Specification Support
	having the second set of programs, each of the second set of programs transmitted on associated one of the plurality of service channels, a method of providing program guide information describing the second set of programs, comprising:	Program guide information is disclosed at page 2, lines 4-7.
	broadcasting first program guide information from the network, the first program guide information describing the first set of programs and not the second set of programs to the subscribers on a first service channel on the first signal; and	This step is disclosed in FIG. 10, block 1002, and in accompanying text of specification (page 17, line 9-13).
	broadcasting second program guide information from the network, the second program guide information describing the second set of programs to a subset of the subscribers on the first service channel on the second signal, wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.	This step is disclosed in FIG. 10, block 1004, and in accompanying text of specification (page 17, lines 13-21). Fundamental signal characteristic is disclosed in the specification at page 14, lines 11-18.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-3, 6, 7, 9-11, 13, 14, and 34-36 are patentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,883,677, issued to Hofmann (hereinafter, the Hofmann reference) in view of U.S. Patent No. 5,867,207, issued to Chaney (hereinafter, the Chaney reference) in view of U. S. Patent No. 6,434,384, issued to Norin et al. (hereinafter, the

Norin reference).

Whether claims 4, 5, and 12 are patentable under 35 U.S.C. §103(a) over Hofmann in view of Chaney, Norin and Stinebruner.

Whether claims 8 and 15 are patentable under 35 U.S.C. §103(a) over Hofmann in view of Chaney, Norin, and Eyer.

Whether claims 16-18, 20, 21, and 37 are patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney and Norin.

Whether claim 19 is patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, and Stinebruner.

Whether claim 22 is patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, Stinebruner, and Eyer.

Whether claims 23-28, 31, 32, and 38 are patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney and Norin.

Whether claims 29-30 are patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, and Stinebruner.

Whether claim 33 is patentable under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, and Eyer.

VII. ARGUMENT

A. The References

1. *The Hofmann Reference*

Hofmann discloses a method and apparatus for receiving, organizing and presenting program information to a display device in a home from at least two outside sources such as CATV, telephone companies (TELCOs) and direct broadcast satellite (DBS) is disclosed. A distribution network is established within the home using, for example, a consumer electronics bus (CEBus). First, a plurality of signals each from a different outside source and each being associated with information for constructing a program information database for the respective source are received. Next, the separate streams of program information for each outside source are integrated into a single merged database, entries of which can be accessed as a function of user supplied criteria. Additionally, information may be appended to each record of the entries in the separate streams of program information which indicate source and/or cost, and, finally, the information contained in the merged database is

presented via the CEBus to a user for viewing and function selection.

2. The Chaney reference

Chaney discloses a program guide in a digital video system. The digital video system receives a digital bitstream representing video and audio information and containing a plurality of packetized data programs in a data format and includes data units related to the selection of individual programs and individual packetized datastreams associated with a program. The system includes a first processor responsive to the bitstream for capturing program guide information and a second processor responsive to the bitstream for capturing selected program data. The program guide data includes a base data unit for selecting a first program and a second data unit of predetermined offset to the base data unit for selecting a second program. The second processor captures program data by capturing data with identifiers matching an identifier determined from the data units.

3. The Norin reference

Norin discloses a non-uniform multi-beam satellite communications system and method, said to be particularly useful for television signals, that allows for local as well as nationwide broadcast service by allocating greater satellite resources to the more important local service areas. This is accomplished by broadcasting a non-uniform pattern of local service beams and designing the system to establish different service area priorities through factors such as the individual beam powers, sizes, roll-off characteristics and peak-to-edge power differentials. Frequency reuse is enhanced by permitting a certain degree of cross-beam interference, with lower levels of interference established for the more important service areas.

4. The Eyer reference

Eyer discloses an apparatus and method for integrating a plurality of video sources. A video system utilizes a "virtual tuner" that integrates signals from multiple video sources to provide a plurality of "virtual channels", each of which has both a video source and a channel associated with it. When a virtual channel is selected, the correct video source is selected and tuned to the correct channel automatically. The virtual tuner may be embodied in a television or in a separate electronic component coupled thereto, such as a direct

broadcast satellite receiver. Alternatively, the video system may be embodied in a universal remote control which is capable of outputting multiple signals to multiple devices in response to a key depression, using either one or two signal transmitters. Channel information may also be downloaded or obtained from a database, for example, to customize an electronic component to receive local broadcast channels.

5. The Klosterman reference

Klosterman discloses a merging multi-source information in a television system. A system that provides a scheme for margin television schedule information received from multiple sources (26, 28, 30 and 34) is also disclosed. In the preferred embodiment, a microprocessor (36) mixes and sorts the schedule information received from multiple source devices (26, 28, 30 or 34). The schedule information is then displayed in a television schedule guide (50). A user can select a program (60 or 62) by pointing to that program in the displayed schedule information (50). The system (10) then carries out an automatic switching/tuning such that the required source device (26, 28, 30 or 34) is input to the destination device (22), and a tuner is then tuned to the selected program's channel (52).

6. The Stinebruner reference

Stinebruner discloses an apparatus and method for integrating a plurality of video sources. The apparatus is said to provide a scheme for margin television schedule information received from multiple sources (26, 28, 30 and 34). In the preferred embodiment, a microprocessor (36) mixes and sorts the schedule information received from multiple source devices (26, 28, 30 or 34). The schedule information is then displayed in a television schedule guide (50). A user can select a program (60 or 62) by pointing to that program in the displayed schedule information (50). The system (10) then carries out an automatic switching/tuning such that the required source device (26, 28, 30 or 34) is input to the destination device (22), and a tuner is then tuned to the selected program's channel (52).

B. The Applicants Claims are Patentable Over the Cited References

1. *Claims 1-3, 6, 7, 9-11, 13, 14, and 34-36 are Patentable Under 35 U.S.C. § 103(a) over Hofmann in view of Chaney and Norin.*

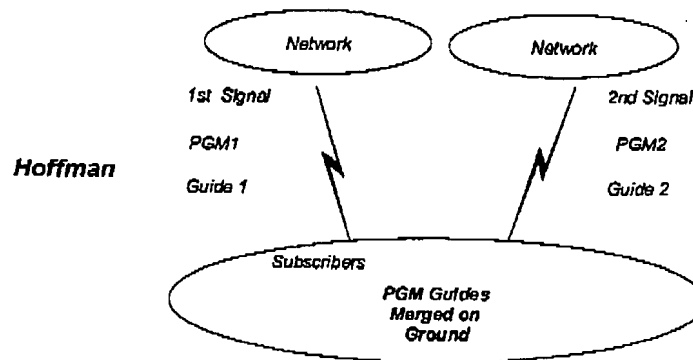
With Respect to Claim 1: Claim 1 recites:

In a network broadcasting a first signal having a first set of programs and not a second set of programs to a plurality of subscribers and a second signal having the second set of programs, a method of providing program guide information describing the second set of programs, comprising:

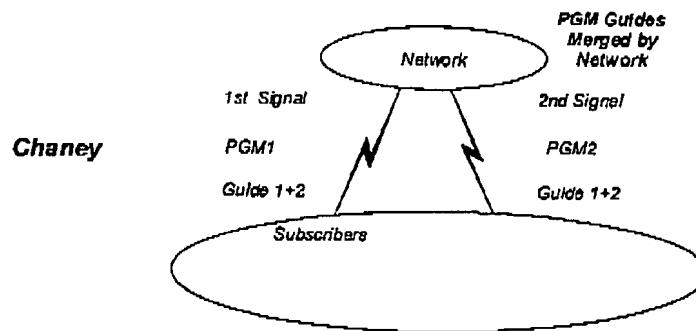
broadcasting first program guide information from the network, the first program guide information describing the first set of programs and not the second set of programs to the subscribers on a first service channel on the first signal; and

broadcasting second program guide information from the network, the second program guide information describing the second set of programs to a subset of the subscribers on the first service channel on the second signal, wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.

Hofmann discloses a system in which two different networks transmit two different program streams to the same receiver using two different signals. Each signal includes program guide information describing the programs on that signal. Hofmann teaches a system where those two program guides are merged. A conceptual diagram of Hofmann's teaching is shown below:



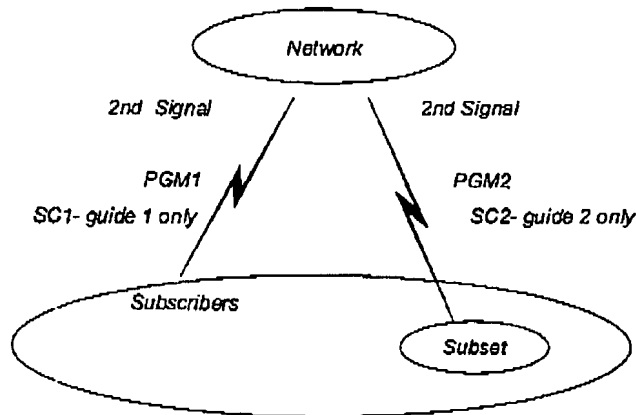
Chaney discloses a system wherein both signals come from the same network, and the program guides are merged by the network and sent to the subscribers, as shown below:



Norin is not directed to program guides at all. Like Chaney, it discloses transmitting different program material in different beams. Unlike Chaney, Norin teaches that the beams may include spot beams.

The question therefore is what the references teach. The Appellants assert that taken together, the references teach this: (1) that if the two signals are transmitted by the same network (as in Chaney), they should be combined (e.g. Guide 1+2) and transmitted together on both of the first and the second signals; and (2) if the two signals are transmitted by different networks, the program guide for each signal should be transmitted to the subscriber, and merged to present a unified program guide (as in Hofmann). The Appellants' invention is novel and non-obvious over this prior art because it does neither.

Instead of receiving program guide information on separate channels of separate signals (Hofmann), or transmitting a MPG on a single channel having all the program guide information for both the first and second set of programs (Chaney), the Appellants' invention broadcasts first program guide information describing only the first set of programs on the first signal and transmits the program guide information describing the second set of programs on the second signal, and on the same service channel (in other words, *different program guides are transmitted on the same channel*).



Chaney teaches transmitting the same (merged) program guide on the same channel, but this teaches away from transmitting *different* program guides on the same channel.

Hofmann does not mention which channel the program guides are transmitted on at all.

It might be argued that the in foregoing statements, the Appellants are arguing the references separately, and not combined. However, Hofmann and Chaney teach fundamentally different systems ... one in which the two signals are transmitted by the same system and one in which they are not. Consequently, they arrive at entirely different solutions to the problem of providing program guides to the user. Any attempt to somehow combine these two systems ignores the fact that they are fundamentally different and incompatible.

The Final Office Action argues:

"Applicant's arguments stating that, "claim 1 recites that the first program guide information and the second ID program information are transmitted by the same network, however Hofmann discloses that signals are broadcast by two different networks" (see Remarks page 13) have been noted. While Hofmann discloses the signal broadcast by two different networks, Hofmann primarily illustrates receiving from at least two different sources at a receiver, wherein one source comprises a broadcast satellite source. Norin discloses broadcasting local television and larger regional broadcast independently over satellite broadcast. Norin therefore extends the plurality of signal sources being independent satellite broadcast sources. Since, the two broadcasts of Norin are over a common delivery system (satellite delivery system), the modified system discloses transmitting the first program guide and second

program guide by the same delivery system and therefore same network.”

It appears as if the Final Office Action argues that Hofmann discloses signals broadcast by two different networks, and Norin, teaches that different signals can be transmitted by the same network. However, Chaney also teaches transmitting two different signals by the same network.

Again the point is that Hofmann and Chaney disclose basic solutions to the problem of getting a program guide down to a user. The solutions differ because the system architectures are fundamentally different (transmitted from a single network as opposed to a plurality of networks).

The Final Office Action also argues:

Also with regards to Applicant's arguments on combination of the Hofmann, Chaney and Norin references (see Remark, page 13-14), the Chaney reference has been relied upon for the teaching that service channel on which a program guide is transmitted can be assigned a specific SCID, thereby enabling SCIDs of program guides on a plurality of a signal sources to be that specific SCID.

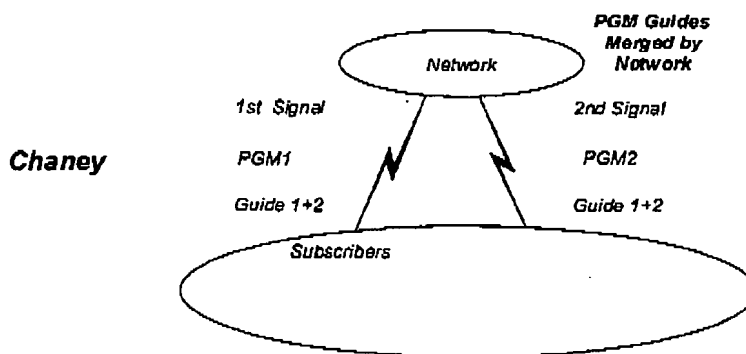
The above passage merely indicates that it is known to transmit program guides on channels identified by SCIDs. Chaney also shows that it is known to transmit the same program guide (Guide 1+2 above) on the same SCID. However, in the system described in claim 1, *different* program guides are transmitted on the same SCID.

The Advisory Action states:

Applicants arguments traversing the combination of Hoffman in view of Chaney and Norin have been noted. The examiner however respectfully disagrees. Hoffman has been relied upon for receiving program guides from multiple sources and presenting a merged program guide to the user. Hoffman generally teaches that the plurality of sources can be a satellite, CATV, terrestrial, etc, wherein each of the program guides provide information about programs offered by the respective sources (see abstract). Chaney has been relied upon only for the teaching of *assigning* a specific channel (i.e. a SCID) on which the program guide is transmitted. In

particular, Chaney discloses re-usage of a specific SCID (such as '0000 0000 0001') for use in both terrestrial and satellite program guide distribution (see column 2, lines 66- column 3, line 3 and column 4, lines 60-65). Therefore, taken in combination with Hoffman, the combination uses the same SCID (e.g. '0000 0000 0001') to receive data over multiple networks. (emphasis in original).

Chaney does in fact teach using a single SCID to transmit the program guide information. But that is not surprising, since Chaney discloses a system wherein the program guide is merged before transmission.



Chaney does not teach "re-usage" of a SCID for use in both terrestrial and satellite program distribution. The cited portion of Chaney are reproduced below:

data transmission channels. Each digital transmission channel provides a "packetized digital data multiplex" (PDDM) of program guides, audio, video and data. As such, the subject system provides a comprehensive and logical orga-

nization for transmission of multiple television programs in digital form useful in both satellite and terrestrial broadcasting.

and

60 A master program guide comprises packetized data formatted as defined above, and is assigned a specific SCID, such as, 0000 0000 0001. A master program guide comprises four sequential blocks of data, designated, SEGM, APGD, CSSM1 . . . CSSMnseg, and PISM1 . . . PISMnseg, to be
65 described below.

The first paragraph simply notes that the method can be used in both satellite and

terrestrial broadcasting. It does not say that it can be used with both at the same time (e.g. re-use). This is apparent from the "FIELD OF THE INVENTION"

FIELD OF THE INVENTION

This invention is related to the field of digital communications systems, and is described with reference to a digital satellite television system, but also may be applicable to a digital cable system or digital terrestrial broadcast system. The invention also concerns screen displays and user menus for controlling such a system.

Accordingly, Chaney does not teach any modification to Hoffman, since both involve fundamentally different system approaches, as described above.

For the foregoing reasons, the Appellants respectfully disagree that combination of references fairly teaches the Appellants' invention, and disagree that there is a teaching to combine the reference together to arrive at the Appellants' invention.

Claim 9 recites analogous features from the receiver's perspective, and is patentable on the same basis. Claim 34 recites analogous features to those of claim 1, and is patentable on the same basis.

Claims 2-3, 6, 7, 10, 11, 13, 13, 14, 35 and 36 depend on claims 1, 9, 16, 23, and 34, respectively, and are patentable on the same basis.

2. Claims 4, 5, and 12 are Patentable Under 35 U.S.C. §103(a) over Hofmann in view of Chaney, Norin, and Stinebruner.

Claims 4, 5 and 12 are rejected under 35 U.S.C. §103(a) as unpatentable over Hofmann in view of the Chaney, Norin and Stinebruner. Appellants respectfully traverse these rejections for the reasons described above. Also, while Stinebruner describes blank channels, it does not describe program guide describing a surrogate channel or anything analogous to it.

3. Claims 8 and 15 are Patentable Under 35 U.S.C. §103(a) over Hofmann in view of Chaney, Norin, and Eyer.

Claims 8 and 15 under 35 U.S.C. §103(a) are rejected as unpatentable over Hofmann in view of the Chaney, Norin and Eyer. Appellants respectfully traverse these rejections for the reasons described above with respect to the related independent claims.

Further, the Appellants note that the Office suggests that it is proper to combine Hofmann, Chaney, Norin, and Eyer. The Appellants' disagree. Recalling that the Office

relied on Norin to argue that it was known in the prior art to transmit two separate signals (and one of them a spot beam), it is could hardly be expected that that second signal or spot beam would be used by the same network to duplicatively transmit the same information (the portion of the first set of programs) to subscribers that are already receiving the program material via the primary beam. In other words, one skilled in the art would be disincentivized from transmitting the same information with both beams. Accordingly, the Appellants cannot agree with that one of ordinary skill in the art would be motivated to combine the foregoing reference as described.

4. *Claims 16-18, 20, 21, and 37 are Patentable Under 35 U.S.C. §103(a) over Klosterman in view of Chaney and Norin.*

With Respect to Claim 16: Claim 16 recites:

A receiver, comprising:
a user interface for accepting subscriber commands;
a tuner selectably configurable to receive a first service channel on a first signal broadcast from a network and the first service channel on a second signal broadcast from the network, the first signal comprising a first set of programs and first program information describing the first set of programs but not a second set of programs, and the second signal comprising the second set of programs and second program guide information describing the second set of programs;
wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal; and
a processor, communicatively coupled to the user interface and the tuner, for retrieving the first program information and the second program information for providing the first and second program information to a presentation device, and for accepting subscriber commands from the user interface.

The Office acknowledges that Klosterman does not teach transmitting first and second program material on the same service channel, but argues that Chaney does so. Indeed, Chaney does. But Chaney discloses a system wherein the same program guide information is transmitted in both the first and second signals on that service channel (see above). Claim 16 recites that the first program information describes the first set of programs but not a second set of programs. Chaney teaches transmitting program guide

information regarding the first and the second set of programs on the single channel.

Also, like Hofmann, Klosterman is directed to a system that receives program material from different and independent networks (CATV, satellite) and combines them at the receiver, whereas Chaney is directed to a system wherein a single network providing all the program information, but on different transponders. Simply put, there would be no reason for one of ordinary skill in the art to modify Klosterman as described in Chaney because they are directed to two different problems. That is because Klosterman envisions a system whereby the programs are received from different networks (and hence, there is some overlap between programs and a need to integrate the program guide information at the receiver) and Chaney is directed to a system wherein the programs are received from the same network and wherein the program guide information from all signals is consolidated into a single MPG before transmission.

The Office Action's rationale for combining the references (providing global and local programming while minimizing interference between different programming streams and providing an efficient use of satellite capacity) does not seem to provide motivation for the same reason as described above in reference to claim 1. If providing global and local programming (Norin) within different networks were the goal one of ordinary skill in the art would be motivated to follow Klosterman. If providing global and local programming (Norin) within the same network were the goal, one of ordinary skill in the art would be motivated to follow Chaney (but no longer Klosterman).

Claims 17-18, 20, 21 and 37 are patentable for the same reasons.

5. Claim 19 is Patentable Under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, and Stinebruner.

Claim 19 is rejected under 35 U.S.C. §103(a) as unpatentable over Klosterman in view of the Chaney, Norin and Stinebruner. Appellants respectfully traverse these rejections for the same reasons as described above with respect to claim 16. and claim 4.

6. Claim 22 is Patentable Under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, Stinebruner, and Eyer.

Claim 22 is rejected under 35 U.S.C. §103(a) are rejected as unpatentable over Klosterman in view of the Chaney, Norin, Stinebruner and Eyer. Appellants respectfully

traverse these rejections for the reasons described above with respect to claims 8 and 15.

7. Claims 23-28, 31, 32, and 38 are Patentable Under 35 U.S.C. §103(a) over Klosterman in view of Chaney and Norin.

Claims 23-28, 31, 32 and 38 are under 35 U.S.C. §103(a) as unpatentable over Klosterman in view of the Chaney and Norin.

Claim 23 recites "a first transmitter, communicatively coupled to the compiler, for transmitting first program guide information describing the first set of programs and not the second set of programs on a first service channel on the first signal; and a second transmitter, communicatively coupled to the compiler, for transmitting the second program guide information describing the second set of programs on the first service channel on the second signal." For the reasons above with respect to claims 1 and 16, the Appellants respectfully disagree that these features are disclosed in the references of record.

Claims 24-28, 31, 32, and 38 are patentable for the same reasons.

8. Claims 29-30 are Patentable Under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, and Stinebruner.

Claims 29-30 are under 35 U.S.C. §103(a) as unpatentable over Klosterman in view of the Chaney, Norin and Stinebruner. Appellants respectfully traverse these rejections for the same reasons described with respect to claims 4, 5, 12, and 19.

9. Claim 33 is Patentable Under 35 U.S.C. §103(a) over Klosterman in view of Chaney, Norin, and Eyer.


Claim 33 is rejected under 35 U.S.C. §103(a) as unpatentable over Klosterman in view of the Chaney, Norin and Eyer. Appellants respectfully traverse these rejections for the same reasons described in claims 8, 15, and 22.

VIII. CONCLUSION

In light of the above arguments, Appellants respectfully submit that the cited references do not anticipate nor render obvious the claimed invention. More specifically, Appellants' claims recite novel physical features which patentably distinguish over any and all references under 35 U.S.C. §§ 102 and 103. As a result, a decision by the Board of Patent Appeals and Interferences reversing the Examiner and directing allowance of the pending claims in the subject application is respectfully solicited.

Respectfully submitted,

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CLAIMS APPENDIX

1. In a network broadcasting a first signal having a first set of programs and not a second set of programs to a plurality of subscribers and a second signal having the second set of programs, a method of providing program guide information describing the second set of programs, comprising:

broadcasting first program guide information from the network, the first program guide information describing the first set of programs and not the second set of programs to the subscribers on a first service channel on the first signal; and

broadcasting second program guide information from the network, the second program guide information describing the second set of programs to a subset of the subscribers on the first service channel on the second signal, wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.

2. The method of Claim 1, wherein the fundamental signal characteristic is carrier frequency, and the first signal is characterized by a first carrier frequency and the second signal is characterized by a second carrier frequency.

3. The method of Claim 1, wherein the fundamental signal characteristic is polarization and the first signal is characterized by a first polarization and the second signal is characterized by a second polarization.

4. The method of Claim 1, wherein the first program guide information includes information describing at least one surrogate channel.

5. The method of Claim 4, wherein a subscriber selection of at least one of the at least one surrogate channels commands reception of the second signal.

6. The method of Claim 1, wherein the second signal is a spot beam directed at the subset of subscribers.

7. The method of Claim 1, wherein the second set of programs comprise local programs and the second signal is a spot beam directed at a subset of the subscribers that are designated to receive the second set of programs.

8. The method of Claim 1, wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs.

9. In a network broadcasting a first signal having a first set of programs and not a second set of programs to a plurality of subscribers and a second signal having the second set of programs to a subset of the subscribers, a method of receiving program guide information describing the second set of programs, comprising the steps of:

receiving first program guide information from the network, the first program guide information describing the first set of programs and not the second set of programs on a first service channel on the first signal; and

receiving second program guide information from the network, the second program guide information describing the second set of programs on the first service channel on the second signal, wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.

10. The method of Claim 9, wherein the fundamental signal characteristic is carrier frequency, and the first signal is characterized by a first carrier frequency and the second signal is characterized by a second carrier frequency.

11. The method of Claim 9, wherein the fundamental signal characteristic is polarization and the first signal is characterized by a first polarization and the second signal is characterized by a second polarization.

12. The method of Claim 10, wherein the first program guide information includes information describing at least one surrogate channel and the method further comprises the step of:

accepting a selection of at least one of the at least one surrogate channels in a receiver; and

receiving the second signal at the second carrier frequency on the first service channel.

13. The method of Claim 12, wherein the second signal is a spot beam directed at the receiver.

14. The method of Claim 12, wherein the second set of programs are local programs and the second signal is a spot beam directed at a subset of subscribers designated to receive the second set of programs.

15. The method of Claim 14, wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs.

16. A receiver, comprising:

a user interface for accepting subscriber commands;

a tuner selectably configurable to receive a first service channel on a first signal broadcast from a network and the first service channel on a second signal broadcast from the network, the first signal comprising a first set of programs and first program information describing the first set of programs but not a second set of programs, and the second signal comprising the second set of programs and second program guide information describing the second set of programs;

wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal; and

a processor, communicatively coupled to the user interface and the tuner, for retrieving the first program information and the second program information for providing the first and second program information to a presentation device, and for accepting subscriber commands from the user interface.

17. The receiver of Claim 16, wherein the fundamental signal characteristic is carrier frequency, and the first signal is characterized by a first carrier frequency and the second signal is characterized by a second carrier frequency.

18. The receiver of Claim 16, wherein the fundamental signal characteristic is polarization and the first signal is characterized by a first polarization and the second signal is characterized by a second polarization.

19. The receiver of Claim 16, wherein:
- the first program guide includes information describing at least one surrogate channel;
- the subscriber commands include a command to select at least one of the at least one surrogate channels; and
- the processor further tunes the tuner to receive the second program guide information in response to the command to select at least one of the at least one surrogate channels.
20. The receiver of Claim 19, wherein the second signal is a spot beam directed at the receiver.
21. The receiver of Claim 19, wherein the second set of programs are local programs and the second signal is a spot beam directed at a subset of subscribers designated to receive the second set of programs.
22. The receiver of Claim 19, wherein the second signal further includes a portion of the first set of programs and the second program information further describes the portion of the first set of programs.

23. An apparatus for use with a network broadcasting a first signal having a first set of programs and not a second set of programs to a plurality of subscribers and a second signal having the second set of programs to a subset of the subscribers, comprising:

a compiler, configured to segment the programs into the first set of programs and the second set of programs, and to generate first program guide describing the first set of programs and second program guide information describing the second set of programs;

a first transmitter, communicatively coupled to the compiler, for transmitting first program guide information describing the first set of programs and not the second set of programs on a first service channel on the first signal; and

a second transmitter, communicatively coupled to the compiler, for transmitting the second program guide information describing the second set of programs on the first service channel on the second signal;

wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.

24. The apparatus of Claim 23, wherein the fundamental signal characteristic is carrier frequency, and the first signal is characterized by a first carrier frequency and the second signal is characterized by a second carrier frequency.

25. The apparatus of Claim 23, wherein the fundamental signal characteristic is polarization and the first signal is characterized by a first polarization and the second signal is characterized by a second polarization.

26. The apparatus of Claim 23, wherein the first transmitter comprises a first transponder and the second transmitter comprises a second transponder.

27. The apparatus of Claim 26, wherein the first transponder and the second transponder are disposed on a satellite.

28. The apparatus of Claim 23, wherein the first transponder is disposed on a first satellite and the second transponder is disposed on a second satellite, and wherein the first satellite and the second satellite are disposed within a beamwidth of a receiver antenna.

29. The apparatus of Claim 23, wherein the first program guide information includes information describing at least one surrogate channel.

30. The apparatus of Claim 29, wherein a subscriber selection of at least one of the at least one surrogate channels commands reception of the second signal.

31. The apparatus of Claim 23, wherein the second signal is a spot beam directed at a subset of subscribers.

32. The apparatus of Claim 23, wherein the second set of programs comprise local programs and the second signal is a spot beam directed at a subset of the subscribers that are designated to receive the second set of programs.

33. The apparatus of Claim 23, wherein the second signal further includes a portion of the first set of programs and the second program information further describes a portion of the first set of programs.

34. In a network broadcasting a first signal having a first set of programs and not a second set of programs, each of the programs in the first set of programs transmitted on an associated one of a plurality of service channels to a plurality of subscribers and a second signal having the second set of programs, each of the second set of programs transmitted on associated one of the plurality of service channels, a method of providing program guide information describing the second set of programs, comprising:

broadcasting first program guide information from the network, the first program guide information describing the first set of programs and not the second set of programs to the subscribers on a first service channel on the first signal; and

broadcasting second program guide information from the network, the second program guide information describing the second set of programs to a subset of the subscribers on the first service channel on the second signal, wherein a fundamental signal characteristic of the second signal differs from the fundamental signal characteristic of the first signal.

35. The method of claim 1, wherein each of the programs in the first set of programs are transmitted on an associated one of a plurality of service channels, and each of the second set of programs are transmitted on an associated one of the plurality of service channels.

36. The method of claim 9, wherein each of the programs in the first set of programs are transmitted on an associated one of a plurality of service channels, and each of the second set of programs are transmitted on an associated one of the plurality of service channels.

37. The receiver of claim 16, wherein each of the programs in the first set of programs are transmitted on an associated one of a plurality of service channels, and each of the second set of programs are transmitted on an associated one of the plurality of service channels.

38. The apparatus of claim 23, wherein each of the programs in the first set of programs are transmitted on an associated one of a plurality of service channels, and each of the second set of programs are transmitted on an associated one of the plurality of service channels.

EVIDENCE APPENDIX

(none)

RELATED APPEALS AND INTERFERENCES APPENDIX
(none)